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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

WARNER/CHAPPELL MUSIC, INC.,) Case No. CV 12-10022 DDP (JCx)
a Delaware corporation;)
WARNER-TAMERLANE PUBLISHING) **ORDER DENYING DEFENDANTS' EX**
CORP., a California) **PARTE APPLICATION TO CONTINUE**
corporation; WB MUSIC CORP.,) **TRIAL AND RELATED DATES**
a California corporation;)
UNICHAPPELL MUSIC, INC., a) [Dkt. No. 33]
Delaware corporation, and)
RIGHTSONG MUSIC, INC., a)
Delaware corporation,)
Plaintiffs,)
v.)
RAP-A-LOT 2K RECORDS, INC.)
d/b/a Rap-A-Lot Records, a)
Texas corporation, and JAMES)
PRINCE, an individual,)
Defendants.)

Defendants in this copyright infringement case have submitted an ex parte application to continue the trial date (set for October 28, 2014), discovery cutoff dates, and the last day to files motions. Defendants' application states that the majority of the parties' time has been dedicated to settlement negotiations, which has left inadequate time for discovery; Defendants' attorney tried

1 another case for two weeks in July, which left him inadequate time
2 for discovery; to date no depositions have been taken in this case,
3 due to disagreements detailed in the Opposition and Reply; and
4 Defendants have recently obtained copies of licenses which might
5 form the basis for summary judgment.

6 However, none of these is a sufficient reason to continue the
7 trial at this late date. As a general matter, counsel are required
8 to manage their schedules in a way that allows them to complete the
9 discovery work necessary in the time provided by the discovery
10 schedule. The Court has already continued discovery cutoff once
11 (to August 1, 2014) based on a stipulation between the parties, and
12 the Court has also allowed and ordered depositions *after* the cutoff
13 dates. (Dkt. Nos. 28-31.) On July 23, 2014, parties filed an
14 additional stipulation, proposing to move the discovery cutoff to
15 October 10 and the last day to file motions to September 26. The
16 Court did not issue an order based on that stipulation, but no
17 mention was made in that stipulation of any emergency or
18 unavoidable conflict on the part of counsel.

19 Instead, many of the concerns raised in that stipulation
20 revolved around issues of expert reports and possible motions based
21 on depositions scheduled for August. These concerns have been
22 rendered moot by the fact that the parties have apparently both
23 failed to adhere to the deposition schedule. Defendants allege
24 that Plaintiffs failed to make their "person most knowledgeable"
25 ("PMK") witness available for deposition. But although that
26 deposition was scheduled to take place August 28, Defendants do not
27 appear to have taken the issue up with the magistrate and waited
28 almost four weeks to file this application with the Court.

1 Defendants have not been diligent in safeguarding their right to
2 discovery. Moreover, Defendants are not entirely innocent in this
3 discovery breakdown, as their own exhibits show that they refused
4 to produce witnesses in apparent retaliation for Plaintiffs'
5 refusal. (Ex. 6, Reply.)

6 Finally, the emergence of new evidence which might provide
7 grounds for summary judgment is not, by itself, a reason to grant
8 the application, given that Defendants do not attempt to show that
9 they could not have obtained this evidence earlier.

10 Good cause to continue the trial date and related cutoffs not
11 being found, the application is denied.

12
13 IT IS SO ORDERED.

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16 Dated: September 29, 2014


DEAN D. PREGERSON
United States District Judge